

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Griffin Sherbert	Team: Squad #7	CCRB Case #: 201903717	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 04/26/2019 5:00 AM	Location of Incident: § 87(2)(b)	Precinct: 48	18 Mo. SOL 10/26/2020	EO SOL 6/12/2021	
Date/Time CV Reported Wed, 05/01/2019 3:24 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 05/01/2019 3:24 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. An officer			
2. POM Brian Doherty	12054	954743	052 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Charles Cavallaro	4758	938197	052 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Brian Doherty	Abuse: Police Officer Brian Doherty entered § 87(2)(b) in the Bronx.	
B.POM Brian Doherty	Abuse: Police Officer Brian Doherty searched § 87(2)(b) in the Bronx.	
C. An officer	Discourtesy: An officer spoke discourteously to § 87(2)(b)	

Case Summary

On May 1, 2019, § 87(2)(b) called the CCRB and filed the following complaint as a non-witnessing reporter.

On April 26, 2019, § 87(2)(b)'s aunt, § 87(2)(b) was staying in her home, § 87(2)(b) in the Bronx, and babysitting her two children, § 87(2)(b)-old § 87(2)(b) and § 87(2)(b)-old § 87(2)(b). At approximately 4:00 a.m. that morning, ESU officers, Sergeant Charles Cavallaro, Police Officer Brian Doherty, and other officers assigned to the 52nd Precinct, forcibly entered and searched the apartment, pursuant to Search Warrant § 87(2)(b) (**Allegations A and B: Abuse of Authority**, § 87(2)(g)). The group of ESU officers entered the bedroom where § 87(2)(b) and § 87(2)(b) were sleeping, wherein an officer allegedly told § 87(2)(b) to “get the fuck up” (**Allegation C: Discourtesy**, § 87(2)(g)). After approximately one hour, the officers left the apartment. No contraband or weapons were found, and no arrests or summonses were issued as a result.

There is no video evidence that exists for this case.

Findings and Recommendations

Allegation A—Abuse of Authority: Police Officer Brian Doherty entered § 87(2)(b) in the Bronx.

Allegation B—Abuse of Authority: Police Officer Brian Doherty searched § 87(2)(b) in the Bronx.

§ 87(2)(b) stated that beginning on April 25, 2019, she was staying in her niece's, § 87(2)(b)'s, residence at § 87(2)(b) in the Bronx, babysitting § 87(2)(b)'s two children, § 87(2)(b)-old § 87(2)(b) and § 87(2)(b)-old § 87(2)(b) (BR01). § 87(2)(b) was on vacation in Puerto Rico at the time, and § 87(2)(b) noted that it was first time staying at § 87(2)(b)'s apartment, and that she lives in upstate New York.

At approximately 4:00 a.m. the morning of April 26, 2019, § 87(2)(b) was in bed with § 87(2)(b) while § 87(2)(b) was on the other bed in the room, when she heard a bang on the door of the apartment. § 87(2)(b) stated that she heard a “second hit” soon after and heard officers enter into the apartment. A group of officers, dressed in armor, and helmets with face shields, entered the bedroom, told § 87(2)(b) and the two children to put their hands up, and they all complied. An officer asked who else was in the house, and § 87(2)(b) told him that it was just herself and the two children. The same officer told her and the kids to put their hands down. The helmeted officers told § 87(2)(b) that detectives would come later and explain why they had to break the door down.

Shortly thereafter, four plainclothed officers arrived, and informed § 87(2)(b) that the they forced entry into the apartment because they received complaint that there was a firearm within § 87(2)(b)'s apartment. A K-9 unit arrived, searched the apartment, and did not locate any weapons or contraband and left the apartment. The officers told § 87(2)(b) and the children to remain in their room, and then searched the entirety of the apartment. The officers did not recover any firearms or other contraband from within the apartment. After approximately one hour, the officers left. § 87(2)(b) did not know which precinct the officers were from.

§ 87(2)(b) (BR02) and § 87(2)(b) (BR03) both corroborated that officers entered and searched their apartment on April 26, 2019.

Search Warrant § 87(2)(b) (BR04), issued to PO Doherty and signed by Hon. § 87(2)(b) on § 87(2)(b), authorized any officer in the NYPD to enter and search § 87(2)(b) in the Bronx, and seize two firearms, ammunition, a quantity of heroin, and

personal papers and effects to establish ownership of the premises, executable at any time of day or night without giving notice of authority or purpose. The subsequent Incident File report (BR05) reported that PO Doherty requested and carried out the warrant, was supervised by Sgt. Cavallaro, and that the entry was conducted by ESU officers.

Sgt. Cavallaro's (BR06) and PO Doherty's (BR07) memo books recorded that on April 26, 2019, they executed the search warrant at approximately 5:00 a.m., however, the subject was not present, and no contraband or weapons were recovered.

Criminal Procedure Law 690.50 states that officers may enter and search a location for which they have a valid search warrant, that they may do so without providing notice if expressly authorized in the search warrant, and that officers may forcefully enter a location to carry out the search warrant (BR08).

§ 87(2)(g)

Allegation C—Discourtesy: An officer spoke discourteously to § 87(2)(b)

§ 87(2)(b) stated that first group of officers who entered spoke rudely to § 87(2)(b) and indicated that it was a curse word (BR02). When asked, § 87(2)(b) ultimately alleged that the officers told § 87(2)(b) to “get the fuck off the bed.” § 87(2)(b) denied that any other officers used any other curse words during the incident.

§ 87(2)(b) stated that the officers that entered and searched § 87(2)(b)'s apartment were not “bad, or rude to us” during the incident (BR01). § 87(2)(b) denied that any officer told her, § 87(2)(b) or § 87(2)(b) to “get the fuck up,” or used any profanity during the incident.

§ 87(2)(b) stated the officers who came into his home treated him nice, denied that they said any “bad words” to him, and did not scream or yell while inside his apartment (BR03).

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint that § 87(2)(b) and § 87(2)(b) have been parties to.
- PO Doherty, a six-year-member-of-service, has had eight prior CCRB complaints filed against him, with a total of 16 allegations, four of which have been substantiated (see Officer History). § 87(2)(g)
 - In CCRB #201510362, stop allegations were substantiated against PO Doherty, the CCRB recommended formalized training, and the NYPD declined to issue a penalty.

- In CCRB #201605007, a stop allegation was substantiated against PO Doherty, the CCRB recommended Command Discipline A, and the NYPD lowered the penalty to formalized training.
- In CCRB #201700793, a vehicle search allegation was substantiated against PO Doherty, the CCRB recommended Command Discipline B, and the NYPD declined to issue a penalty.

Mediation, Civil and Criminal Histories

- This case was not suitable for mediation.
- As of June 19, 2019, § 87(2)(b) has not filed a Notice of Claim with the NYC Comptroller's Office in regards to this incident (BR10).
- According to the Office of Court Administration database, neither § 87(2)(b) nor § 87(2)(b) has been criminally convicted in New York City (BR11).

Squad No.: 7

Investigator:	_____	_____	_____
	Signature	Print Title & Name	Date

Squad Leader:	_____	_____	_____
	Signature	Print Title & Name	Date

Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date